

REMARKS

Claims 1, 3, 4, 7-12, and 16-20 were examined in the Office Action mailed January 14, 2005 (the "Office Action"). All pending claims were allowed in a Notice of Allowance dated February 23, 2004, which Notice of Allowance was vacated in an action dated July 6, 2004. Applicants note with appreciation that the claims 1, 3, 4, 7-12, 16, 18 and 20 remain allowed. Prosecution on the merits was reopened on claims 17 and 19 in the Office Action, and the claims were rejected under 35 U.S.C. §102(e). These rejections are believed to be overcome as discussed below.

AMENDMENTS TO THE CLAIMS

Claims 17 and 19 are amended to recite that the AAV vectors comprise "a gene encoding a therapeutic protein." Support for the amendment is found, among other places, in original claim 10, in the Summary of the Invention at page 6, line 14, in Examples 4 and 5 (pp. 43-44), and in the data presented at Figures 4-7.

REJECTION UNDER 35 U.S.C. §102(e)

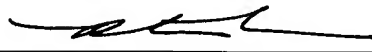
Claims 17 and 19 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2002/0192189 to Xiao et al. Solely in an effort to advance prosecution, claims 17 and 19 have been amended to replace "a selected gene" with "a gene encoding a therapeutic protein." Xiao et al. does not provide enabling disclosure of treatment with, or delivery of, a gene encoding a therapeutic protein. Because Xiao et al. does not disclose all elements of the claimed invention it does not anticipate claims 17 and 19 as amended.

CONCLUSION

For the reasons discussed above, Applicant submits that claims 17 and 19 are in proper condition for allowance, and a Notice of Allowance is respectfully requested. If the Examiner notes any further matters which he believes may be resolved by a telephone interview, he is encouraged to contact Christina Thomson, J.D., by telephone at 510-748-7208.

Respectfully submitted,

Date: 7/12/05

By: 
Roberta L. Robins
Registration No. 33,208
Attorney for Applicant

ROBINS & PASTERNAK LLP
1731 Embarcadero Road, Suite 230
Palo Alto, CA 94303
Telephone: (650) 493-3400
Fax: (650) 493-3440